



Federal Communications Commission  
Washington, D.C. 20554

DA 03-3665

November 19, 2003

John K. Hane  
Senior Vice President  
Pegasus Development Corporation  
225 City Line Avenue, Suite 200  
Bala Cynwyd, PA 19004

Re: Application of Pegasus Development Corporation for Authority to Launch and Operate a Geostationary Orbit Fixed-Satellite Service System in the Ka-band, File No. SAT-LOA-20030827-00169, Call Sign S2482

Application of Pegasus Development Corporation for Authority to Launch and Operate a Geostationary Orbit Fixed-Satellite Service System in the Ka-band, File No. SAT-LOA-20030827-00171, Call Sign S2484

Pegasus Development Corporation, Authority to Launch and Operate a Geostationary Orbit Fixed-Satellite Service System in the Ka-band, File No. SAT-LOA-20031030-00319, Call Sign S2600

Dear Mr. Hane:

On August 27, 2003, Pegasus Development Corporation (Pegasus) filed two of the applications listed in the caption above to operate geostationary orbit (GSO) satellites in the Ka-band, one at the 79° W.L. orbital location (The 79° Application), and the other at the 87° W.L. orbital location (The 87° Application).<sup>1</sup> On October 30, 2003, Pegasus filed the third application listed in the caption, to operate a GSO satellite in the Ka-band at the 73° W.L. orbital location (The 73° Application).<sup>2</sup> For the reasons discussed below, we return all three applications as defective, without prejudice to refiling.

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<sup>1</sup> Specifically, Pegasus seeks authority for a Ka-band satellite at 79° W.L. in Application File No. SAT-LOA-20030827-00169, and at 87° W.L. in Application File No. SAT-LOA-20030827-00171. In both applications, Pegasus requests the 18.3-18.8 GHz and 19.7-20.2 GHz frequency bands for its downlinks, and 28.35-28.6 GHz and 29.25-30.0 GHz frequency bands for its uplinks.

<sup>2</sup> Specifically, Pegasus seeks authority for a Ka-band satellite at 73° W.L. in Application File No. SAT-LOA-20031030-00319. In this application, Pegasus requests the 18.3-18.8 GHz and 19.7-20.2 GHz frequency

Most significantly, Section 25.114(c) of the Commission's rules<sup>3</sup> clearly and explicitly requires all space station applicants to submit all applicable items of information listed in its subsections. Recently, the Commission conducted a comprehensive review of its space station rules and underlying policies, including the policies and practices related to Section 25.114(c). In the *First Space Station Reform Order*,<sup>4</sup> the Commission revised the space station licensing process to adapt it to today's satellite environment. As part of the measures adopted in the *First Space Station Reform Order*, the Commission determined to continue to require applications to be substantially complete when filed.<sup>5</sup> As the Commission noted, the procedures and rules it adopted will enable the Commission to establish satellite licensees' operating rights clearly and quickly, and as a result, allow licensees to provide service to the public much sooner than might be possible under our previous licensing procedures.<sup>6</sup> Finding defective applications acceptable for filing is not consistent with the rules and policies adopted by the Commission in the *First Space Station Reform Order* and only serves to create uncertainty and inefficiencies in the licensing process.

In all three of its applications, Pegasus states that it plans to design a geostationary satellite capable of being maintained in orbit within 0.1° of its assigned orbital longitude.<sup>7</sup> Section 25.210(j)(1), however, requires GSO satellites to be designed to be capable of being maintained in orbit within 0.05° of their assigned orbital longitudes. 47 C.F.R. § 25.210(j)(1). Thus, Pegasus's proposed satellites do not comply with the Commission's rules. Moreover, Pegasus has not requested a waiver of Section 25.210(j)(1). Sections 25.112(a)(2) and (b)(1) of the Commission's rules state that an application that does not substantially comply with the Commission's rules will be returned to the applicant as unacceptable for filing unless the application is accompanied by a waiver request with reasons supporting the waiver.

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bands for its downlinks, and 28.35-28.6 GHz and 29.25-30.0 GHz frequency bands for its uplinks.

<sup>3</sup> 47 C.F.R. § 25.114(c).

<sup>4</sup> Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*).

<sup>5</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10852 (para. 244), citing *Space Station Reform NPRM*, 17 FCC Rcd at 3875 (para. 84). The cases cited in PanAmSat's Supplemental Letter predate the *First Space Station Reform Order*, which made clear that applicants are required to submit substantially complete applications, including all the information in Section 25.114.

<sup>6</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10765-66 (para. 4).

<sup>7</sup> The 79° Application at 2, and Appendix at A-1; The 87° Application at 2, and Appendix at A-1; The 73° Application, Appendix at A-1.

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we find that Application File Nos. SAT-LOA-20030827-00169, SAT-LOA-20030827-00171, and SAT-LOA-20031030-00319 are defective. We therefore return these applications, without prejudice to refiling.<sup>8</sup>

Sincerely,

Thomas S. Tycz  
Satellite Division  
International Bureau

cc: Bruce D. Jacobs  
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<sup>8</sup> If the applicant refiles an application identical to the one dismissed, with the exception of supplying a request for waiver of Section 25.210(j)(1), or change the station keeping tolerance consistent with Section 25.210(j)(1), it need not pay a further application fee. *See* 47 C.F.R. § 1.1109(d).